

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 737

Introduced by Senator Romero

(Principal coauthors: Assembly Members Bass, Leno, and Liu)

February 22, 2005

An act to amend Section 11552 of, to add Article 14 (commencing with Section 12838) to Chapter 1 of Part 2.5 of Division 3 of Title 2 of, and to repeal Sections 11560, 11563.1, 12811, and 12811.1 of, the Government Code, and to amend Sections 2800, 2802, 2803, 2804, 2806, 2807, 2808, 2809, 2810, 2810.5, 2811, 2815, 2816, 3041, 3041.1, 5000, 5001, 5003.5, 5050, 5052, 5054, 5055, 5057, ~~5067~~, 5075, 5076.1, 6024, 6025, 6026, 6030, 6050, 7518, 13600, 13601, 13602, 13603, 13810, and 14204 of, to amend the headings of Chapter 1 (commencing with Section 5000), Chapter 2 (commencing with Section 5050), Chapter 3 (commencing with Section 5075), Chapter 4 (commencing with Section 6001), and Chapter 5 (commencing with Section 6024) of Title 7 of Part 3 of, and to amend the heading of Title 4.5 (commencing with Section 13600) of Part 4, of, and to add Sections 5075.1, ~~5075.6~~, and 5075.7, and 6126.6 to, and to repeal Sections 2036, 2038, 2043.3, 2045.3, 2046.3, 2048.3, 2048.7, 2079, 5051, 5051.5, 5053, ~~5067~~, 5082, 6001, 6003, and 6004 of, and to repeal Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of, the Penal Code, and to amend Sections 1000, 1703, 1710, 1711, 1712, 1713, 1714, 1716, 1719, 1720, 1723, 1725, 1766, 1798, 3150, 3151, 3158, 3300, and 3309 of, and to repeal Sections 1717, 1718, 1721, 1722, ~~1798.5~~, and 3157 of, *and to repeal and add Section 1798.5* the Welfare and Institutions Code, relating to reorganizing the Youth and Adult Correctional Agency, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 737, as amended, Romero. Corrections.

Existing law establishes the Youth and Adult Correctional Agency, which consists of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Board of Corrections, the Youth Authority Board, and the Narcotic Addict Evaluation Authority.

This bill would abolish those departments and boards, and instead create the Department of Corrections and Rehabilitation, which would consist of the Division of Adult Operations, the Division of ~~Youth Operations~~ *Adult Programs, the Division of Juvenile Justice*, the Corrections Standards Authority, ~~and the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.~~ The department would be headed by the Secretary of the Department of Corrections and Rehabilitation, who would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint ~~2 subordinate officers for the secretary, an undersecretary, and would require the Governor to appoint 3 chief deputy secretaries, and an assistant secretary for health care policy, all subject to Senate confirmation. The bill would also require the Governor to appoint 2 additional subordinate officers, who would be known as the Chief Administrative Officer of the Department of Corrections and Rehabilitation, Division of Adult Operations, and the Chief Administrative Officer of the Department of Corrections and Rehabilitation, Division of Youth Operations.~~

The bill would create the Division of Adult Institutions and the Division of Adult Parole Operations under the Chief Deputy Secretary for Adult Operations. Each division would be headed by a division chief, appointed by the Governor, and subject to Senate confirmation. The bill would require the Governor to appoint 5 subordinate officers to the chief of the Division of Adult Institutions, subject to Senate confirmation, to head identified areas of adult institutions.

The bill would create the Division of Community Partnerships, the Division of Education, Vocations, and Offender Programs, and the Division of Correctional Health Care Services under the Chief Deputy for Adult Programs, each to be headed by a chief who is appointed by the Governor and subject to Senate confirmation.

The bill would create the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole

Operations under the Chief Deputy of Juvenile Justice, each to be headed by a chief who is appointed by the Governor and subject to Senate confirmation.

The bill would authorize the Governor to request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide lists of persons qualified for appointment to all of the above positions.

The bill would vest the new department with all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Youth and Adult Correctional Agency, the Department of Corrections, the Department of the Youth Authority, the Commission on Correctional Peace Officer Standards and Training, the Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. The bill would maintain the existing functions, powers, responsibilities, and jurisdiction of the Council on Mentally Ill Offenders, Prison Industry Authority, Prison Industry Authority Board, California Council for Interstate Adult Offender Supervision, and the Joint Venture Policy Advisory Board under the new department.

Under existing law, the Board of Prison Terms is comprised of 9 members, appointed by the Governor, with the advice and consent of the Senate, each for a term of 4 years and until the appointment of a successor.

Under this bill, the Board of Parole Hearings would be comprised of 17 commissioners, appointed by the Governor, subject to Senate confirmation, for 3-year terms. *Of those commissions, 12 would be appointed and trained to hear only adult parole matters, and 5 would be appointed and trained only to hear juvenile parole matters.* The board would be vested with all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms, the Narcotic Addict Evaluation Authority, and the Youth Authority Board. This bill would ~~revise provisions relating to hearings by the board~~ *authorize the Governor to appoint an executive officer of the board, subject to Senate confirmation.*

Existing law prescribes the procedures for holding en banc hearings of the Board of Prison Terms.

This bill would define an en banc hearing of the Board of Parole Hearings to mean a hearing conducted by a committee of 9 randomly selected commissioners who are specifically appointed to hear adult parole matters.

The bill would prescribe specified backgrounds of, and training for, persons appointed to be commissioners of the board.

Under existing law, the Board of Corrections is comprised of 15 members.

Under this bill, the Corrections Standards Authority would be comprised of ~~17~~ 19 members. The bill would vest the new authority with all of the duties, functions, and responsibilities of the Board of Corrections and the Commission on Correctional Peace Officer Standards and Training.

Existing law prescribes the duty of the wardens to supervise the government, discipline and policy of the prisons, and to enforce all orders and regulations, subject to the orders and the policies established by the Department of Corrections.

This bill would repeal that provision, and would change all references to “warden” to “chief operating officer.”

Under existing law, the Inspector General is responsible for reviewing departmental policy and procedures for conducting audits of investigatory practices and other audits, as well as conducting investigations of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Youth and Adult Correctional Agency, as requested by either the Secretary of the Youth and Adult Correctional Agency or a Member of the Legislature.

This bill would also require the Inspector General to review, confidentially, every candidate for chief operating officer, in order to determine the qualifications of each candidate, and to give a recommendation of whether or not each candidate is qualified for the position.

Existing law establishes the State Commission on Juvenile Justice, Crime, and Delinquency Prevention.

This bill would abolish that commission and instead create the State Commission on Juvenile Justice, to provide comprehensive oversight, planning, and coordination of efforts leading to the improvement of juvenile justice among state and local agencies.

The bill would make other related changes to implement the creation of the new department.

The bill would state the intent of the Legislature that the changes made in the bill supplement and refine Governor’s Reorganization

Plan No. 1, and to the extent that any conflicts exist between that measure and this bill, the changes made in this bill will prevail. The bill would become operative only if Governor's Reorganization Plan No. 1 becomes effective in which case it would become operative on July 1, 2005.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11552 of the Government Code is
2 amended to read:
3 11552. Effective January 1, 1988, an annual salary of
4 eighty-five thousand four hundred two dollars (\$85,402) shall be
5 paid to each of the following:
6 (a) Commissioner of Financial Institutions.
7 (b) Commissioner of Corporations.
8 (c) Insurance Commissioner.
9 (d) Director of Transportation.
10 (e) Real Estate Commissioner.
11 (f) Director of Social Services.
12 (g) Director of Water Resources.
13 ~~(h) Chief Administrative Officer of the Department of~~
14 ~~Corrections and Rehabilitation, Division of Adult Operations.~~
15 *(h) Chief Deputy Secretary for Adult Operations of the*
16 *Department of Corrections and Rehabilitation.*
17 (i) Director of General Services.
18 (j) Director of Motor Vehicles.
19 ~~(k) Chief Administrative Officer of the Department of~~
20 ~~Corrections and Rehabilitation, Division of Youth Operations.~~
21 *(k) Chief Deputy Secretary for Juvenile Justice in the*
22 *Department of Corrections and Rehabilitation.*
23 (l) Executive Officer of the Franchise Tax Board.
24 (m) Director of Employment Development.
25 (n) Director of Alcoholic Beverage Control.
26 (o) Director of Housing and Community Development.
27 (p) Director of Alcohol and Drug Abuse.

1 (q) Director of the Office of Statewide Health Planning and
2 Development.

3 (r) Director of the Department of Personnel Administration.

4 (s) Chairperson and Member of the Board of Equalization.

5 (t) Secretary of Technology, Trade, and Commerce.

6 (u) State Director of Health Services.

7 (v) Director of Mental Health.

8 (w) Director of Developmental Services.

9 (x) State Public Defender.

10 (y) Director of the California State Lottery.

11 (z) Director of Fish and Game.

12 (aa) Director of Parks and Recreation.

13 (ab) Director of Rehabilitation.

14 (ac) Director of Veterans Affairs.

15 (ad) Director of Consumer Affairs.

16 (ae) Director of Forestry and Fire Protection.

17 (af) The Inspector General pursuant to Section 6125 of the
18 Penal Code.

19 (ag) Director of Child Support Services.

20 (ah) Director of Industrial Relations.

21 (ai) *Chief Deputy Secretary for Adult Programs in the*
22 *Department of Corrections and Rehabilitation.*

23 The annual compensation provided by this section shall be
24 increased in any fiscal year in which a general salary increase is
25 provided for state employees. The amount of the increase
26 provided by this section shall be comparable to, but shall not
27 exceed, the percentage of the general salary increases provided
28 for state employees during that fiscal year.

29 SEC. 2. Section 11560 of the Government Code is repealed.

30 SEC. 3. Section 11563.1 of the Government Code is repealed.

31 SEC. 4. Section 12811 of the Government Code is repealed.

32 SEC. 5. Section 12811.1 of the Government Code is repealed.

33 SEC. 6. Article 14 (commencing with Section 12838) is
34 added to Chapter 1 of Part 2.5 of Division 3 of Title 2 of the
35 Government Code, to read:

36
37 Article 14. Department of Corrections and Rehabilitation

38
39 12838. (a) There is hereby created in state government the
40 Department of Corrections and Rehabilitation, to be headed by a

1 secretary, who shall be appointed by, ~~and hold office at the~~
2 ~~pleasure of~~, the Governor, subject to Senate confirmation, *and*
3 *shall serve at the pleasure of the Governor.* The Department of
4 Corrections and Rehabilitation shall consist of ~~the Division of~~
5 ~~Youth Operations, the Division of Adult Operations, Adult~~
6 ~~Operations, Adult Programs, Juvenile Justice,~~ the Corrections
7 Standards Authority, ~~and the Board of Parole Hearings, the State~~
8 ~~Commission on Juvenile Justice, the Prison Industry Authority,~~
9 *and the Prison Industry Board.*

10 (b) The Governor, upon recommendation of the secretary, may
11 ~~appoint no more than two subordinate officers for the secretary,~~
12 ~~in addition to those authorized by Section 12838.1.~~ *appoint an*
13 *undersecretary of the Department of Corrections and*
14 *Rehabilitation, subject to Senate confirmation. The*
15 *undersecretary shall hold office at the pleasure of the Governor.*

16 (c) *The Governor, upon recommendation of the secretary,*
17 *shall appoint three chief deputy secretaries, subject to Senate*
18 *confirmation, who shall hold office at the pleasure of the*
19 *Governor. One chief deputy secretary shall oversee adult*
20 *operations, one chief deputy secretary shall oversee adult*
21 *programs, and one chief deputy secretary shall oversee juvenile*
22 *justice for the department.*

23 (d) *The Governor, upon recommendation of the secretary,*
24 *shall appoint an assistant secretary, subject to Senate*
25 *confirmation, who shall be responsible for health care policy for*
26 *the department, and shall serve at the pleasure of the Governor.*

27 12838.1. There is hereby created within the Department of
28 Corrections and Rehabilitation, ~~the Division of Youth Operations~~
29 ~~and the Division of Adult Operations.~~ Each division shall be
30 ~~headed by a subordinate officer to the secretary, who shall, upon~~
31 ~~recommendation of the secretary, be appointed by the Governor,~~
32 ~~and hold office at the pleasure of the Governor, subject to Senate~~
33 ~~confirmation.~~ *under the Chief Deputy Secretary for Adult*
34 *Operations, the Division of Adult Institutions and the Division of*
35 *Adult Parole Operations. Each division shall be headed by a*
36 *division chief, who shall be appointed by the Governor, upon*
37 *recommendation of the secretary, subject to Senate confirmation,*
38 *who shall serve at the pleasure of the Governor.*

39 (b) *The Governor shall, upon recommendation of the*
40 *secretary, appoint five subordinate officers to the chief of the*

1 *Division of Adult Institutions, subject to Senate confirmation,*
2 *who shall serve at the pleasure of the Governor. Each*
3 *subordinate officer appointed pursuant to this subdivision shall*
4 *oversee an identified category of adult institutions, one of which*
5 *shall be female offender facilities.*

6 12838.2. *There is hereby created within the Department of*
7 *Corrections and Rehabilitation, under the Chief Deputy*
8 *Secretary for Adult Programs, the Division of Community*
9 *Partnerships, the Division of Education, Vocations and Offender*
10 *Programs, and the Division of Correctional Health Care*
11 *Services. Each division shall be headed by a chief who shall be*
12 *appointed by the Governor, at the recommendation of the*
13 *secretary, subject to Senate confirmation, who shall serve at the*
14 *pleasure of the Governor.*

15 12838.3. *There is hereby created within the Department of*
16 *Corrections and Rehabilitation under the Chief Deputy Secretary*
17 *for Juvenile Justice, the Division of Juvenile Facilities, the*
18 *Division of Juvenile Programs, and the Division of Juvenile*
19 *Parole Operations. Each division shall be headed by a chief, who*
20 *shall be appointed by the Governor, at the recommendation of*
21 *the secretary, subject to Senate confirmation, who shall serve at*
22 *the pleasure of the Governor.*

23 12838.4. The Board of Parole Hearings is hereby created. The
24 Board of Parole Hearings shall be comprised of 17
25 commissioners, who shall be appointed by the Governor, subject
26 to Senate confirmation, for three-year terms. The Board of Parole
27 Hearings hereby succeeds to, and is vested with, all the powers,
28 duties, responsibilities, obligations, liabilities, and jurisdiction of
29 the following entities, which shall no longer exist: Board of
30 Prison Terms, Narcotic Addict Evaluation Authority, and
31 Youthful Offender Parole Board. For purposes of this article, the
32 above entities shall be known as “predecessor entities.”

33 ~~12838.3~~ 12838.5. The Department of Corrections and
34 Rehabilitation hereby succeeds to, and is vested with, all the
35 powers, duties, responsibilities, obligations, liabilities, and
36 jurisdiction of the following entities, which shall no longer exist:
37 Youth and Adult Correctional Agency, Department of
38 Corrections, Department of the Youth Authority, Commission on
39 Correctional Peace Officer Standards and Training, Board of
40 Corrections, and State Commission on Juvenile Justice, Crime

1 and Delinquency Prevention. For purposes of this article, the
2 above entities shall be known as “predecessor entities.”

3 ~~12838.4.~~12838.6. The following entities shall be continued in
4 existence within the Department of Corrections and
5 Rehabilitation and shall retain existing functions, powers,
6 responsibilities, and jurisdiction, *except as expressly provided*
7 *otherwise*: Council on Mentally Ill Offenders, Prison Industry
8 Authority, Prison Industry Authority Board, California Council
9 for Interstate Adult Offender Supervision, and the Joint Venture
10 Policy Advisory Board. For purposes of this article, these shall
11 be known as “continuing entities.”

12 ~~12838.5.~~12838.7. (a) The Secretary of the Department of
13 Corrections and Rehabilitation shall serve as the Chief Executive
14 Officer of the Department of Corrections and Rehabilitation and
15 shall have all of the powers and authority which are conferred
16 upon a head of a state department by Chapter 2 (commencing
17 with Section 11150) of Part 1 of Division 3 of Title 2 of the
18 Government Code.

19 (b) Without limiting any other powers or duties, the secretary
20 shall assure compliance with the terms of any state plan,
21 memorandums of understanding, administrative order,
22 interagency agreements, assurances, single state agency
23 obligations, federal statute and regulations, and any other form of
24 agreement or obligation that vital government activities rely
25 upon, or are a condition to, the continued receipt by the
26 department of state or federal funds or services. This includes,
27 but is not limited to, the designation, appointment, and provision
28 of individuals, groups, and resources to fulfill specific
29 obligations of any agency, board, or department that is abolished
30 pursuant to Section ~~12838.2 or 12838.3~~ 12838.4 or 12838.5.

31 ~~12838.6.~~12838.8. All regulations adopted by the predecessor
32 entities, continuing entities, and any of their predecessors are
33 expressly continued in force. Any statute, law, rule, or regulation
34 now in force, or that may hereafter be enacted or adopted with
35 reference to the predecessor entities and any of their predecessors
36 shall mean the Department of Corrections and Rehabilitation.
37 Any action concerning these duties, responsibilities, obligations,
38 liabilities, and functions shall not abate but shall continue in the
39 name of the Department of Corrections and Rehabilitation, and
40 the Department of Corrections and Rehabilitation shall be

1 substituted for the predecessor entities and continuing entities by
2 the court wherein the action is pending. The substitution shall not
3 affect the rights of the parties to the action.

4 ~~12838.7.~~12838.9. No contract, lease, license, or any other
5 agreement to which the predecessor entities, continuing entities,
6 and any of their predecessors are a party shall be void or voidable
7 by reason of this measure, but shall continue in full force and
8 effect, with the Department of Corrections and Rehabilitation
9 assuming all of the rights, obligations, and duties of the
10 predecessor entities. That assumption by the Department of
11 Corrections and Rehabilitation shall not in any way affect the
12 rights of the parties to the contract, lease, license, or agreement.
13 Bonds issued by the predecessor entities, continuing entities, and
14 any of their predecessors on or before July 1, 2005, shall become
15 the indebtedness of any newly created entity. Any ongoing
16 obligations or responsibilities of the predecessor entities,
17 continuing entities, and any of their predecessors for managing
18 and maintaining bond issuances shall be transferred to the newly
19 created entity without impairment to any security contained in
20 the bond instrument.

21 ~~12838.8.~~12838.10. On and after July 1, 2005, the
22 unencumbered balance of all money available for expenditure by
23 the predecessor entities, continuing entities, and any of their
24 predecessors in carrying out any functions transferred to the
25 Department of Corrections and Rehabilitation by this measure
26 shall be made available for the support and maintenance of the
27 Department of Corrections and Rehabilitation. All books,
28 documents, records, and property of the predecessor entities shall
29 be transferred to the Department of Corrections and
30 Rehabilitation.

31 ~~12838.9.~~12838.11. On and after July 1, 2005, positions filled
32 by appointment by the Governor in the predecessor entities or
33 continuing entities shall be transferred to the Department of
34 Corrections and Rehabilitation. Individuals in positions
35 transferred pursuant to this section shall serve at the pleasure of
36 the Governor, unless as otherwise expressly stated. Titles of
37 positions transferred pursuant to this section shall be determined
38 by the secretary with the approval of the Governor. Salaries of
39 positions transferred shall remain at the level established
40 pursuant to law on June 30, 2005.

~~12838.10.~~12838.12. (a) Any officer or employee of the predecessor entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Corrections and Rehabilitation pursuant to the provisions of Section 19050.9.

(b) Any officer or employee of the continuing entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall continue such status with the continuing entity pursuant to the provisions of Section 19050.9.

(c) The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Corrections and Rehabilitation, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

~~12838.11.~~12838.13. This article shall become operative as of July 1, 2005.

SEC. 7. Section 2036 of the Penal Code is repealed.

SEC. 8. Section 2038 of the Penal Code is repealed.

SEC. 9. Section 2043.3 of the Penal Code is repealed.

SEC. 10. Section 2045.3 of the Penal Code is repealed.

SEC. 11. Section 2046.3 of the Penal Code is repealed.

SEC. 12. Section 2048.3 of the Penal Code is repealed.

SEC. 13. Section 2048.7 of the Penal Code is repealed.

SEC. 14. Section 2079 of the Penal Code is repealed.

~~2079. Subject to the orders and the policies established by the department, it shall be the duty of the wardens to supervise the government, discipline and policy of the prisons, and to enforce all orders and regulations.~~

~~SEC. 14.~~

SEC. 15. Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of the Penal Code is repealed.

~~SEC. 15.~~

SEC. 16. Section 2800 of the Penal Code is amended to read:

1 2800. Commencing July 1, 2005, there is hereby continued
2 in existence within the Department of Corrections and
3 Rehabilitation the Prison Industry Authority. As used in this
4 article “authority” means the Prison Industry Authority.
5 Commencing July 1, 2005, any reference to the Department of
6 Corrections shall refer to the Department of Corrections and
7 Rehabilitation.

8 ~~SEC. 16.~~

9 *SEC. 17.* Section 2802 of the Penal Code is amended to read:

10 2802. Commencing July 1, 2005, there is hereby continued
11 in existence within the Department of Corrections and
12 Rehabilitation a Prison Industry Board. The board shall consist of
13 the following 11 members:

14 (a) The Secretary of the Department of Corrections and
15 Rehabilitation, or his or her designee.

16 (b) The Director of the Department of General Services, or his
17 or her designee.

18 (c) The Secretary of Business, Transportation and Housing, or
19 his or her designee.

20 (d) The Speaker of the Assembly shall appoint two members
21 to represent the general public.

22 (e) The Senate Committee on Rules shall appoint two
23 members to represent the general public.

24 (f) The Governor shall appoint four members. Of these, two
25 shall be representatives of organized labor, and two shall be
26 representatives of industry. The initial term of one of the
27 members appointed by the Speaker of the Assembly shall be two
28 years, and the initial term of the other shall be three years. The
29 initial term of one of the members appointed by the Senate
30 Committee on Rules shall be two years, and the initial term of the
31 other shall be three years. The initial terms of the four members
32 appointed by the Governor shall be four years. All subsequent
33 terms of all members shall be for four years. Each member’s
34 term shall continue until the appointment and qualification of his
35 or her successor.

36 ~~SEC. 17.~~

37 *SEC. 18.* Section 2803 of the Penal Code is amended to read:

38 2803. The Secretary of the Department Corrections and
39 Rehabilitation shall be the chairperson of the board. The
40 chairperson shall be the administrative head of the board and

1 shall exercise all duties and functions necessary to insure that the
2 responsibilities of the board are successfully discharged. The
3 board shall hold meetings on the call of the chairperson or a
4 majority of the board. Six members of the board, including the
5 chairperson, shall constitute a quorum. The vote of a majority of
6 the members serving on the board is necessary for the transaction
7 of the business of the board.

8 ~~SEC. 18:~~

9 *SEC. 19.* Section 2804 of the Penal Code is amended to read:

10 2804. The appointed members of the board shall receive a per
11 diem to be determined by the chairperson, but not less than the
12 usual per diem rate allowed to the Department of Corrections and
13 Rehabilitation employees during travel out of state. All members,
14 including the chairperson, shall also receive their actual and
15 necessary expenses of travel incurred in attending meetings of
16 the commission and in making investigations, either as a board or
17 individually as members of the board at the request of the
18 chairperson. All the expenses shall be paid from the Prison
19 Industries Revolving Fund.

20 ~~SEC. 19:~~

21 *SEC. 20.* Section 2806 of the Penal Code is amended to read:

22 2806. There is hereby constituted a permanent revolving fund
23 in the sum of not less than seven hundred thirty thousand dollars
24 (\$730,000), to be known as the Prison Industries Revolving
25 Fund, and to be used to meet the expenses necessary in the
26 purchasing of materials and equipment, salaries, construction and
27 cost of administration of the prison industries program. The fund
28 may also be used to refund deposits either erroneously made or
29 made in cases where delivery of products cannot be
30 consummated. The fund shall at all times contain the amount of
31 at least seven hundred thirty thousand dollars (\$730,000), either
32 in cash or in receivables, consisting of raw materials, finished or
33 unfinished products, inventory at cost, equipment, or any
34 combination of the above. Money received from the rendering of
35 services or the sale of products in the prisons and institutions
36 under the jurisdiction of the Department of Corrections and
37 Rehabilitation pursuant to this article shall be paid to the State
38 Treasurer monthly and shall be credited to the fund. At any time
39 that the Secretary of the Department of Corrections and
40 Rehabilitation and the Director of Finance jointly determine that

1 the balance in that revolving fund is greater than is necessary to
2 carry out the purposes of the authority, they shall so inform the
3 Controller and request a transfer of the unneeded balance from
4 the revolving fund to the General Fund of the State of California.
5 The Controller is authorized to transfer balances upon request.
6 Funds deposited in the revolving fund are not subject to annual
7 appropriation by the Legislature and may be used without a time
8 limit by the authority.

9 The Prison Industries Revolving Fund is not subject to the
10 provisions of Articles 2 (commencing with Section 13320) and 3
11 (commencing with Section 13335) of Chapter 3 of Part 3 of
12 Division 3 of Title 2 of the Government Code.

13 Any major capital outlay project undertaken by the authority
14 pursuant to this article shall be subject to review by the Public
15 Works Board pursuant to the provisions of Part 10.5
16 (commencing with Section 15752) of Division 3 of Title 2 of the
17 Government Code.

18 ~~SEC. 20.~~

19 *SEC. 21.* Section 2807 of the Penal Code is amended to read:

20 2807. (a) The authority is hereby authorized and empowered
21 to operate industrial, agricultural, and service enterprises which
22 will provide products and services needed by the state, or any
23 political subdivision thereof, or by the federal government, or
24 any department, agency, or corporation thereof, or for any other
25 public use. Products may be purchased by state agencies to be
26 offered for sale to inmates of the department and to any other
27 person under the care of the state who resides in state-operated
28 institutional facilities. Fresh meat may be purchased by food
29 service operations in state-owned facilities and sold for onsite
30 consumption.

31 (b) All things authorized to be produced under subdivision (a)
32 shall be purchased by the state, or any agency thereof, and may
33 be purchased by any county, city, district, or political
34 subdivision, or any agency thereof, or by any state agency to
35 offer for sale to persons residing in state-operated institutions, at
36 the prices fixed by the Prison Industry Authority. State agencies
37 shall make maximum utilization of these products, and shall
38 consult with the staff of the authority to develop new products
39 and adapt existing products to meet their needs.

40 *SEC. 21.* Section 2808 of the Penal Code is amended to read:

1 2808. ~~(a) Commencing July 1, 2005, the Secretary of the~~
2 ~~Department of Corrections and Rehabilitation shall have the~~
3 ~~authority to contract for the services of a general manager to~~
4 ~~serve as the chief administrative officer of the Prison Industry~~
5 ~~Authority. Alternatively, the secretary may appoint a general~~
6 ~~manager to serve as the chief administrative officer of the Prison~~
7 ~~Industry Authority. The general manager shall either render~~
8 ~~services consistent with the terms of his or her contract or, if~~
9 ~~appointed, serve at the pleasure of the secretary. The general~~
10 ~~manager shall have wide and successful experience with a~~
11 ~~productive enterprise and have a demonstrated appreciation of~~
12 ~~the problems associated with prison management.~~

13 ~~(b) The general manager shall, in the exercise of his or her~~
14 ~~duties under this article, have the authority to do all of the~~
15 ~~following:~~

16 ~~(1) The board, in the exercise of its duties, shall have all of the~~
17 ~~powers and do all of the things that the board of directors of a~~
18 ~~private corporation would do, except as specifically limited in~~
19 ~~this article, including, but not limited to, all of the following:~~

20 ~~(a) To enter into contracts and leases, execute leases, pledge~~
21 ~~the equipment, inventory and supplies under the control of the~~
22 ~~authority and the anticipated future receipts of any enterprise~~
23 ~~under the jurisdiction of the authority as collateral for loans, and~~
24 ~~execute other necessary instruments and documents.~~

25 ~~(2)~~

26 ~~(b) To assure that all funds received by the authority are kept~~
27 ~~in commercial accounts according to standard accounting~~
28 ~~practices.~~

29 ~~(3)~~

30 ~~(c) To arrange for an independent annual audit.~~

31 ~~(4) To review~~

32 ~~(d) To review and approve the annual budget for the authority,~~
33 ~~in order to assure that the solvency of the Prison Industries~~
34 ~~Revolving Fund is maintained.~~

35 ~~(5) To apply for and administer grants that are consistent with~~
36 ~~the purposes of the authority.~~

37 ~~(6)~~

38 ~~(e) To contract to employ a general manager to serve as the~~
39 ~~chief administrative officer of the authority. The general~~
40 ~~manager shall serve at the pleasure of the chairperson. The~~

1 *general manager shall have wide and successful experience with*
2 *a productive enterprise, and have a demonstrated appreciation of*
3 *the problems associated with prison management.*

4 *(f) To apply for and administer grants and contracts of all*
5 *kinds.*

6 *(g) To establish, notwithstanding any other provision of law,*
7 *procedures governing the purchase of raw materials, component*
8 *parts, and any other goods and services which may be needed by*
9 *the authority or in the operation of any enterprise under its*
10 *jurisdiction. Those procedures shall contain provisions for*
11 ~~*requesting any action taken in connection with the procedures to*~~
12 ~~*be discussed in a public forum before the Prison Industry Board.*~~
13 ~~*The board shall assure adequate public notice of any forum. The*~~
14 ~~*board shall issue a report with findings of fact and*~~
15 ~~*recommendations as a result of any public forum held pursuant to*~~
16 ~~*this paragraph*~~ *appeal to the board from any action taken in*
17 *connection with them.*

18 ~~*(7)*~~

19 *(h) To establish, expand, diminish, or discontinue industrial,*
20 *agricultural and service enterprises under the authority's*
21 *jurisdiction to enable it to operate as a self-supporting enterprise,*
22 *to provide as much employment for inmates as is feasible, and to*
23 *provide diversified work activities to minimize the impact on*
24 *existing private industry in the state.*

25 ~~*(8)*~~

26 *(i) To hold public hearings pursuant to subdivision (h) to*
27 *provide an opportunity for persons or organizations who may be*
28 *affected to appear and present testimony concerning the plans*
29 *and activities of the authority. The authority shall assure*
30 *adequate public notice of those hearings. No new industrial,*
31 *agricultural, or service enterprise which involves a gross annual*
32 *production of more than fifty thousand dollars (\$50,000) shall be*
33 *established unless and until a hearing concerning the enterprise*
34 *has been held by a committee of persons designated by the board*
35 *including at least two board members. The board shall take into*
36 *consideration the effect of a proposed enterprise on California*
37 *industry and shall not approve the establishment of the enterprise*
38 *if the board determines it would have a comprehensive and*
39 *substantial adverse impact on California industry which cannot*
40 *be mitigated.*

1 (j) To periodically determine the prices at which activities,
2 supplies, and services shall be sold.

3 ~~(9)~~

4 (k) To report to the Legislature in writing, on or before
5 February 1 of each year, regarding:

6 ~~(A)~~

7 (l) The financial activity and condition of each enterprise
8 under its jurisdiction.

9 ~~(B)~~

10 (2) The plans of the ~~general manager~~ board regarding any
11 significant changes in existing operations.

12 ~~(C)~~

13 (3) The plans of the ~~general manager~~ board regarding the
14 development of new enterprises.

15 ~~(D)~~

16 (4) A breakdown, by institution, of the number of prisoners at
17 each institution, working in enterprises under the jurisdiction of
18 the authority, said number to indicate the number of prisoners
19 which are not working full time.

20 ~~(e) The Prison Industry Board shall hold public forums to~~
21 ~~provide an opportunity for persons or organizations who may be~~
22 ~~affected to appear and present testimony concerning the plans~~
23 ~~and activities of the general manager. The board shall assure~~
24 ~~adequate public notice of the forums. No new industrial,~~
25 ~~agricultural, or service enterprise that involves a gross annual~~
26 ~~production of more than fifty thousand dollars (\$50,000) shall be~~
27 ~~established unless and until a public forum concerning the~~
28 ~~enterprise has been held by a committee of persons designated by~~
29 ~~the board, including at least two board members. The board shall~~
30 ~~take into consideration the effect of a proposed enterprise on~~
31 ~~California industry and shall issue a report detailing whether or~~
32 ~~not the establishment of the enterprise would have a~~
33 ~~comprehensive and substantial adverse impact on California~~
34 ~~industry that cannot be mitigated.~~

35 ~~SEC. 22.~~

36 SEC. 23. Section 2809 of the Penal Code is amended to read:
37 2809. Notwithstanding any other provision of law,
38 commencing July 1, 2005, the authority may recruit and employ
39 civilian staff that may be necessary to carry out the purposes of
40 this article, and shall establish recruiting, testing, hiring,

1 promotion, disciplinary, and dismissal procedures and practices
2 which will meet the unique personnel needs of the authority. The
3 practices may include incentives based on productivity,
4 profit-sharing plans, or other criteria which will encourage
5 civilian employee involvement in the productivity goals of the
6 authority. The procedures and practices shall apply to all
7 employees working in enterprises under the jurisdiction of the
8 authority. The general manager shall be the appointing authority
9 for all personnel of the authority other than the general manager.

10 ~~SEC. 23.~~

11 *SEC. 24.* Section 2810 of the Penal Code is amended to read:

12 2810. Commencing July 1, 2005, the general manager, with
13 the approval of the Department of Finance, may authorize the
14 borrowing of money by the authority for purposes of any of the
15 following:

- 16 (a) Operating the business affairs of the authority.
- 17 (b) Purchasing new equipment, materials and supplies.
- 18 (c) Constructing new facilities, or repairing, remodeling, or
19 demolishing old facilities.

20 Funds may be borrowed from private sources, upon those
21 terms that the Department of Finance deems appropriate,
22 including but not limited to, the use of equipment under the
23 jurisdiction of the authority, and of the future income of an
24 enterprise under the jurisdiction of the authority, as collateral to
25 secure any loan.

26 ~~SEC. 24.~~

27 *SEC. 25.* Section 2810.5 of the Penal Code is amended to
28 read:

29 2810.5. Notwithstanding any other provision of law,
30 commencing July 1, 2005, the Pooled Money Investment Board,
31 or its successor, may grant loans to the authority when money is
32 appropriated for that purpose by the Legislature, upon application
33 by the Secretary of the Department of Corrections and
34 Rehabilitation, in order to finance the establishment of a new
35 industrial, agricultural, or service enterprise. All loans shall bear
36 the same interest rate as the pooled money market investment
37 rate and shall have a maximum repayment period of 20 years
38 from the date of approval of the loan.

1 Prior to making its decision to grant a loan, the Pooled Money
2 Investment Board, or its successor, shall require the authority to
3 demonstrate all of the following:

4 (a) The proposed industry project cannot be feasibly financed
5 from private sources under Section 2810. The authority shall
6 present proposed loan conditions from at least two private
7 sources.

8 (b) The proposed industry project cannot feasibly be financed
9 from proceeds from other Prison Industry Authority enterprises.

10 (c) The proceeds from the proposed project provide for a
11 reasonable payback schedule to the General Fund.

12 ~~SEC. 25.~~

13 *SEC. 26.* Section 2811 of the Penal Code is amended to read:

14 2811. Commencing July 1, 2005, the general manager shall
15 adopt and maintain a compensation schedule for ~~prisoner~~ inmate
16 employees. That compensation schedule shall be based on
17 quantity and quality of work performed and shall be required for
18 its performance, but in no event shall that compensation exceed
19 one-half the minimum wage provided in Section 1182 of the
20 Labor Code, except as otherwise provided in this code. This
21 compensation shall be credited to the account of the ~~prisoner~~
22 inmate.

23 ~~Prisoner~~ Inmate compensation shall be paid from the Prison
24 Industries Revolving Fund.

25 ~~SEC. 26.~~

26 *SEC. 27.* Section 2815 of the Penal Code is amended to read:

27 2815. Commencing July 1, 2005, the authority may, under
28 rules prescribed by the Secretary of the Department of
29 Corrections and Rehabilitation, dispose of products developed
30 from the operations of industrial enterprises in prisons and
31 institutions under the jurisdiction of the authority by sale to
32 foreign governments, corporations for distribution in foreign
33 countries, and private persons or their agents in markets outside
34 the United States and in countries which permit the importation
35 of prison-made goods. All sales made pursuant to this section
36 shall be reported to the Legislature in the general manager's
37 annual report pursuant to Section 2808.

38 ~~SEC. 27.~~

39 *SEC. 28.* Section 2816 of the Penal Code is amended to read:

1 2816. With the approval of the Department of Finance, there
2 shall be transferred to, or deposited in, the Prison Industries
3 Revolving Fund for purposes authorized by this section, money
4 appropriated from any source including sources other than state
5 appropriations.

6 Notwithstanding subdivision (b) of Section 2808, the general
7 manager may order any authorized public works project
8 involving construction, renovation, or repair of prison facilities to
9 be performed by inmate labor when the total expenditure does
10 not exceed the project limit established by Section 10108 of the
11 Public Contract Code. Projects entailing expenditure of greater
12 than the project limit established by Section 10108 of the Public
13 Contract Code shall be reviewed and approved by the Secretary
14 of the Department of Corrections and Rehabilitation.

15 Money so transferred or deposited shall be available for
16 expenditure by the department for the purposes for which
17 appropriated, contributed or made available, without regard to
18 fiscal years and irrespective of the provisions of Sections 13340
19 and 16304 of the Government Code. Money transferred or
20 deposited pursuant to this section shall be used only for purposes
21 authorized in this section.

22 ~~SEC. 28.~~

23 SEC. 29. Section 3041 of the Penal Code is amended to read:

24 3041. (a) In the case of any ~~prisoner~~ *inmate* sentenced
25 pursuant to any provision of law, other than Chapter 4.5
26 (commencing with Section 1170) of Title 7 of Part 2, the Board
27 of Parole Hearings shall meet with each inmate during the third
28 year of incarceration for the purposes of reviewing the inmate's
29 file, making recommendations, and documenting activities and
30 conduct pertinent to granting or withholding postconviction
31 credit. One year prior to the inmate's minimum eligible parole
32 release date a panel of two or more commissioners or deputy
33 commissioners shall again meet with the inmate and shall
34 normally set a parole release date as provided in Section 3041.5.
35 No more than one member of the panel shall be a deputy
36 commissioner. In the event of a tie vote, the matter shall be
37 referred for an en banc hearing by the board. The release date
38 shall be set in a manner that will provide uniform terms for
39 offenses of similar gravity and magnitude in respect to their
40 threat to the public, and that will comply with the sentencing

1 rules that the Judicial Council may issue and any sentencing
2 information relevant to the setting of parole release dates. The
3 board shall establish criteria for the setting of parole release dates
4 and in doing so shall consider the number of victims of the crime
5 for which the ~~prisoner~~ *inmate* was sentenced and other factors in
6 mitigation or aggravation of the crime. At least one
7 commissioner of the panel shall have been present at the last
8 preceding meeting, unless it is not feasible to do so or where the
9 last preceding meeting was the initial meeting. Any person on the
10 hearing panel may request review of any decision regarding
11 parole for an en banc hearing by the board. In case of a review, a
12 majority vote in favor of parole by the board members
13 participating in an en banc hearing is required to grant parole to
14 any ~~prisoner~~ *inmate*.

15 (b) The panel or the board, sitting en banc, shall set a release
16 date unless it determines that the gravity of the current convicted
17 offense or offenses, or the timing and gravity of current or past
18 convicted offense or offenses, is such that consideration of the
19 public safety requires a more lengthy period of incarceration for
20 this individual, and that a parole date, therefore, cannot be fixed
21 at this meeting. After the effective date of this subdivision, any
22 decision of the parole panel finding an inmate suitable for parole
23 shall become final within 120 days of the date of the hearing.
24 During that period, the board may review the panel's decision.
25 The panel's decision shall become final pursuant to this
26 subdivision unless the board finds that the panel made an error of
27 law, or that the panel's decision was based on an error of fact, or
28 that new information should be presented to the board, any of
29 which when corrected or considered by the board has a
30 substantial likelihood of resulting in a substantially different
31 decision upon a rehearing. In making this determination, the
32 board shall consult with the commissioners who conducted the
33 parole consideration hearing. No decision of the parole panel
34 shall be disapproved and referred for rehearing except by a
35 majority vote of the board, sitting en banc, following a public
36 hearing.

37 (c) For the purpose of reviewing the suitability for parole of
38 those ~~prisoners~~ *inmates* eligible for parole under prior law at a
39 date earlier than that calculated under Section 1170.2, the board
40 shall appoint panels of at least two persons to meet annually with

1 each ~~prisoner~~ inmate until the time the person is released
2 pursuant to proceedings or reaches the expiration of his or her
3 term as calculated under Section 1170.2.

4 (d) *It is the intent of the Legislature that during times when*
5 *there is no backlog of inmates awaiting parole hearings, life*
6 *parole consideration hearings or life rescission hearings,*
7 *hearings will be conducted by a panel of three or more members,*
8 *the majority of whom shall be commissioners. The board shall*
9 *report monthly on the number of cases where an inmate has not*
10 *received a completed initial or subsequent parole consideration*
11 *hearing within 30 days of the hearing date required by*
12 *subdivision (a) of Section 3041.5 or paragraph (2) of subdivision*
13 *(b) of Section 3041.5, unless the inmate has waived the right to*
14 *those timeframes. That report shall be considered the backlog of*
15 *cases for purposes of this section, and shall include information*
16 *on the progress toward eliminating the backlog, and on the*
17 *number of inmates who have waived their right to the above*
18 *timeframes. The report shall be made public at a regularly*
19 *scheduled meeting of the board and a written report shall be*
20 *made available to the public and transmitted to the Legislature*
21 *quarterly.*

22 (e) For purposes of this section, an en banc hearing by the
23 board means a hearing conducted by a committee of
24 ~~commissioners~~ *nine randomly selected commissioners who are*
25 *specifically appointed to hear adult parole matters, selected by*
26 *the chairperson. The committee shall be comprised of a majority*
27 *of commissioners holding office on the date the matter is heard*
28 *by the committee.*

29 ~~SEC. 29.~~

30 SEC. 30. Section 3041.1 of the Penal Code is amended to
31 read:

32 3041.1. ~~The~~ *Up to 90 days prior to a scheduled release date,*
33 *the Governor may request review of any final decision by a*
34 *parole authority concerning the grant or denial of parole to any*
35 *prisoner inmate in a state prison during the 90 days following*
36 *that final decision, or at least 90 days before a scheduled parole*
37 *release date, whichever is later. The Governor. The Governor*
38 *shall state the reason or reasons for the request, and whether the*
39 *request is based on a public safety concern, a concern that the*
40 *gravity of current or past convicted offenses may have been*

given inadequate consideration, or on other factors. When a request has been made, a ~~committee, selected by the chairperson of the board and comprised of a majority of the commissioners holding office,~~ *randomly selected committee comprised of nine commissioners specifically appointed to hear adult parole matters and who are holding office at the time*, shall review the parole decision. In case of a review, a vote in favor of parole by a majority of the commissioners on the committee shall be required to grant parole to any ~~prisoner inmate~~. In carrying out any review, the board shall comply with the provisions of this chapter.

~~SEC. 30.~~

SEC. 31. The heading of Chapter 1 (commencing with Section 5000) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 1. THE DEPARTMENT OF CORRECTIONS AND
REHABILITATION

~~SEC. 31.~~

SEC. 32. Section 5000 of the Penal Code is amended to read: 5000. Commencing July 1, 2005, any reference to the Department of Corrections in this or any other code refers to the Department of Corrections and Rehabilitation, Division of Adult Operations.

~~SEC. 32.~~

SEC. 33. Section 5001 of the Penal Code is amended to read: 5001. (a) ~~Commencing July 1, 2005, there is within the Department of Corrections and Rehabilitation a Division of Adult Operations. A subordinate officer to the secretary shall be appointed by the Governor, subject to Senate confirmation, pursuant to this section to serve at the pleasure of the Governor. The subordinate officer shall serve as the chief administrative officer of the Department of Corrections and Rehabilitation, Division of Adult Operations.~~

~~(b)~~ The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide ~~a list~~ *lists* of persons qualified for appointment pursuant to ~~subdivision (a)~~ *Article 14 (commencing with Section 12838) of Chapter 1 of Part 2.5 of Division 3 of the*

1 *Government Code*. The Governor may appoint any person from
2 ~~that list the lists~~ of qualified persons or may reject all names and
3 appoint ~~another person who meets~~ *other persons who meet* the
4 requirements of ~~this chapter~~ *the positions*.

5 ~~SEC. 33.~~

6 *SEC. 34.* Section 5003.5 of the Penal Code is amended to
7 read:

8 5003.5. The Board of Parole Hearings is empowered to
9 advise and recommend to the Secretary of the Department of
10 Corrections and Rehabilitation on general and specific policies
11 and procedures relating to the duties and functions of the
12 secretary. The secretary is empowered to advise and recommend
13 to the board on matters of general and specific policies and
14 procedures, relating to the duties and functions of the board. The
15 secretary and the board shall meet for purposes of exchange of
16 information and advice.

17 ~~SEC. 34.~~

18 *SEC. 35.* The heading of Chapter 2 (commencing with
19 Section 5050) of Title 7 of Part 3 of the Penal Code is amended
20 to read:

21
22 CHAPTER 2. THE SECRETARY OF THE DEPARTMENT OF
23 CORRECTIONS AND REHABILITATION
24

25 ~~SEC. 35.~~

26 *SEC. 36.* Section 5050 of the Penal Code is amended to read:
27 5050. Commencing July 1, 2005, any reference to the
28 Director of Corrections in this or any other code refers to the
29 Secretary of the Department of Corrections and Rehabilitation.
30 As of that date, the office of the Director of Corrections is
31 abolished.

32 ~~SEC. 36.~~

33 *SEC. 37.* Section 5051 of the Penal Code is repealed.

34 ~~SEC. 37.~~

35 *SEC. 38.* Section 5051.5 of the Penal Code is repealed.

36 ~~SEC. 38.~~

37 *SEC. 39.* Section 5052 of the Penal Code is amended to read:
38 5052. Any officer or employee of the Department of
39 Corrections and Rehabilitation designated in writing by the
40 secretary, shall have the power of a head of a department

1 pursuant to Article 2 (commencing at Section 11180) of Chapter
2 2, Part 1, Division 3, Title 2, of the Government Code.

3 ~~SEC. 39.~~

4 *SEC. 40.* Section 5053 of the Penal Code is repealed.

5 ~~SEC. 40.~~

6 *SEC. 41.* Section 5054 of the Penal Code is amended to read:

7 5054. Commencing July 1, 2005, the supervision,
8 management and control of the state prisons, and the
9 responsibility for the care, custody, treatment, training, discipline
10 and employment of persons confined therein are vested in the
11 Secretary of the Department of Corrections and Rehabilitation.

12 ~~SEC. 41.~~

13 *SEC. 42.* Section 5055 of the Penal Code is amended to read:

14 5055. Commencing July 1, 2005, all powers and duties
15 previously granted to and imposed upon the Department of
16 Corrections shall be exercised by the Secretary of the Department
17 of Corrections and Rehabilitation, except where those powers
18 and duties are expressly vested by law in the Board of Parole
19 Hearings.

20 Whenever a power is granted to the secretary or a duty is
21 imposed upon the secretary, the power may be exercised or the
22 duty performed by a subordinate officer to the secretary or by a
23 person authorized pursuant to law by the secretary.

24 ~~SEC. 42.~~

25 *SEC. 43.* Section 5057 of the Penal Code is amended to read:

26 5057. (a) Subject to the powers of the Department of Finance
27 under Section 13300 of the Government Code, the secretary shall
28 establish an accounting and auditing system for all of the
29 agencies and institutions including the prisons which comprise
30 the department in whatever form that will best facilitate their
31 operation, and may modify the system from time to time.

32 (b) The accounting and auditing system shall include those
33 accounts and records that are necessary to properly account for
34 all money and property of the inmates.

35 (c) Except where other disposition is provided by law, all
36 money belonging to the state received by the department, shall be
37 reported to the Controller and deposited in the State Treasury
38 monthly.

39 ~~SEC. 43.~~ Section 5067 of the Penal Code is amended to read:

~~5067. Commencing July 1, 2005, the Department of Corrections and Rehabilitation shall operate conservation centers, branches thereof, and permanent, temporary and mobile camps operating therefrom, and shall have charge of all other institutions in the department and activities of persons in the custody of the secretary relating to conservation work. The Governor may appoint a subordinate officer to the secretary for purposes of implementing this section, who shall hold office at the pleasure of the Governor. The secretary shall appoint any additional personnel that are necessary to enable the department to carry out the functions described in this section.~~

SEC. 44. Section 5067 of the Penal Code is repealed.

~~5067. There is, in the Department of Corrections, a Correctional Conservation Camp Services Division, which shall be headed by a Deputy Director of Corrections, appointed by the Governor, on the recommendation of the Director of Corrections to serve at the pleasure of the Governor. The division shall operate the conservation centers, branches thereof, and permanent, temporary and mobile camps operating therefrom, and shall have charge, subject to the general direction of the Director of Corrections, of all other institutions in the department and activities of persons in the custody of the director relating to conservation work. The director shall appoint such personnel as are necessary to enable the division to carry out its functions.~~

~~SEC. 44.~~

SEC. 45. The heading of Chapter 3 (commencing with Section 5075) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 3. THE BOARD OF PAROLE HEARINGS

~~SEC. 45.~~

SEC. 46. Section 5075 of the Penal Code is amended to read:

5075. (a) Commencing July 1, 2005, there is hereby created the Board of Parole Hearings. As of July 1, 2005, any reference to the Board of Prison Terms in this or any other code refers to the Board of Parole Hearings. As of that date, the Board of Prison Terms is abolished.

(b) The Governor shall appoint 17 commissioners, subject to Senate confirmation, pursuant to this section. *Of those 17*

1 *commissioners, 12 shall be appointed and trained to hear only*
2 *adult matters, and five shall be appointed and trained to hear*
3 *only juvenile matters.* The terms of the commissioners shall
4 expire as follows: eight on July 1, 2007, and nine on July 1,
5 2008. Successor commissioners shall hold office for terms of
6 three years, each term to commence on the expiration date of the
7 predecessor. Any appointment to a vacancy that occurs for any
8 reason other than expiration of the term shall be for the
9 remainder of the unexpired term. Commissioners are eligible for
10 reappointment. *The selection of persons and their appointment by*
11 *the Governor and confirmation by the Senate shall reflect as*
12 *nearly as possible a cross section of the racial, sexual, economic,*
13 *and geographic features of the population of the state.*

14 (c) The chair of the board shall be designated by the Governor
15 periodically. The Governor may appoint an executive officer of
16 the board, *subject to Senate confirmation*, who shall hold office
17 at the pleasure of the Governor. The executive officer shall be the
18 administrative head of the board and shall exercise all duties and
19 functions necessary to insure that the responsibilities of the board
20 are successfully discharged. ~~The secretary shall appoint any~~
21 ~~additional personnel that are necessary to enable the board to~~
22 ~~carry out its functions.~~ *The secretary shall be the appointing*
23 *authority for all civil service positions of employment with the*
24 *board.*

25 (d) Each commissioner shall participate in hearings on each
26 workday, except when it is necessary for a commissioner to
27 attend training, en banc hearings or full board meetings, or other
28 administrative business requiring the participation of the
29 commissioner. For purposes of this subdivision, these hearings
30 shall include parole consideration hearings, parole rescission
31 hearings, and parole progress hearings.

32 ~~SEC. 46.~~

33 *SEC. 47.* Section 5075.1 is added to the Penal Code, to read:

34 5075.1. The Board of Parole Hearings shall do all of the
35 following:

36 (a) Conduct parole consideration hearings, parole rescission
37 hearings, and parole progress hearings for adults *and juveniles*
38 under the jurisdiction of the department.

39 (b) Conduct mentally disordered offender hearings.

40 (c) Conduct sexually violent predator hearings.

(d) Review prisoners' requests for reconsideration of denial of good-time credit and setting of parole length or conditions, pursuant to Section 5077.

(e) Determine revocation of parole for adult offenders under the jurisdiction of the Division of Adult *Parole* Operations, pursuant to Section 5077.

(f) Carry out the functions described in Section 1719 of the Welfare and Institutions Code, and make every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the ~~Division of Youth Operations~~ *Department of Corrections and Rehabilitation*.

(g) Conduct studies pursuant to Section 3150 of the Welfare and Institutions Code.

(h) Investigate and report on all applications for reprieves, pardons, and commutation of sentence, as provided in Title 6 (commencing with Section 4800) of Part 3.

(i) Exercise other powers and duties as prescribed by law.

(j) *Effective January 1, 2007, all commissioners appointed and trained to hear juvenile parole matters, together with their duties prescribed by law as functions of the Board of Parole Hearings concerning wards under the jurisdiction of the Department of Corrections and Rehabilitation, are transferred to the Chief Deputy Secretary for Juvenile Justice. All applicable regulations in effect at the time of transfer shall be deemed to apply to those commissioners until new regulations are adopted.*

~~SEC. 47.~~

SEC. 48. Section 5075.6 is added to the Penal Code, to read:

5075.6. (a) (1) Commissioners and deputy commissioners hearing matters pursuant to subdivision (f) of Section 5075.1, or any other matter involving wards under the jurisdiction of the ~~Division of Youth Operations~~ *Juvenile Facilities*, shall have a broad background in, and ability for, appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which those persons are committed, and the evaluation of an individual's progress toward reformation. Insofar as practicable, commissioners and deputy commissioners selected to hear these matters also shall have a varied and sympathetic interest in youth correction work and shall have experience *or education* in the fields of corrections, sociology, law, law enforcement, mental health, ~~and medicine, drug treatment, or education.~~

~~(b)~~

(2) Within 60 days of appointment and annually thereafter, commissioners and deputy commissioners described in subdivision (a) shall undergo a minimum of 40 hours of training in the following areas: ~~treatment~~

(A) *Treatment* and training programs provided to wards at Department of Corrections and Rehabilitation institutions, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs; ~~a review of current~~.

(B) Current national research on effective interventions with juvenile offenders and how they compare to department program and treatment services; ~~parole services; commissioner~~.

(C) *Parole Services*.

(D) *Commissioner* duties and responsibilities; ~~and a review of factors~~.

(E) *Knowledge of laws regulations applicable to conducting parole hearings, including the rights of victims, witnesses, and wards*.

(F) *Factors* influencing ward lengths of stay and ward recidivism rates and their relationship to one another.

(b) (1) *Commissioners and deputy commissioners hearing matters concerning adults under the jurisdiction of the Department of Corrections and Rehabilitation shall have a broad background in criminal justice and an ability for appraisal of adult offenders, the crimes for which those persons are committed, and the evaluation of an individual's progress toward reformation. Insofar as practicable, commissioners and deputy commissioners shall have a varied interest in adult correction work, public safety, and shall have experience or education in the fields of corrections, sociology, law, law enforcement, medicine, mental health, or education.*

(2) *All commissioners and deputy commissioners who conduct hearings for the purpose of considering the parole suitability of inmates, the setting of a parole release date for inmates, or the revocation of parole for adult parolees, shall, within 60 days of appointment and annually thereafter undergo a minimum of 40 hours of training in the following areas:*

(A) *Treatment and training programs provided to inmates at Department of Corrections and Rehabilitation institutions,*

1 *including, but not limited to, educational, vocational, mental*
2 *health, medical, substance abuse, psychotherapeutic counseling,*
3 *and sex offender treatment programs.*

4 *(B) Parole services.*

5 *(C) Commissioner duties and responsibilities.*

6 *(D) Knowledge of laws and regulations applicable to*
7 *conducting parole hearings, including the rights of victims,*
8 *witnesses, and inmates.*

9 SEC. 48. Section 5075.7 is added to the Penal Code, to read:

10 ~~5075.7. Insofar as practicable, commissioners or deputy~~
11 ~~commissioners conducting studies pursuant to subdivision (g) of~~
12 ~~Section 5075.1 shall have a background in law, sociology, law~~
13 ~~enforcement, medicine, education, or drug counseling.~~

14 SEC. 49. Section 5076.1 of the Penal Code is amended to
15 read:

16 5076.1. (a) The board shall meet at each of the state prisons
17 ~~and may meet at any facility~~ *facilities* under the jurisdiction of
18 the Division of ~~Youth Operations~~ *Juvenile Facilities*. Meetings
19 shall be held at whatever times may be necessary for a full and
20 complete study of the cases of all inmates and wards whose
21 matters are considered. Other times and places of meeting may
22 also be designated by the board. Each commissioner of the board
23 shall receive his actual necessary traveling expenses incurred in
24 the performance of his or her official duties. Where the board
25 performs its functions by meeting en banc in either public or
26 executive sessions to decide matters of general policy, at least
27 nine members shall be present, and no action shall be valid
28 unless it is concurred in by a majority vote of those present.

29 (b) The board may use deputy commissioners to whom it may
30 assign appropriate duties, including hearing cases and making
31 decisions. Those decisions shall be made in accordance with
32 policies approved by a majority of the total membership of the
33 board.

34 (c) The board may meet and transact business in panels. Each
35 panel shall consist of two or more persons, *subject to subdivision*
36 *(d) of Section 3041*. No action shall be valid unless concurred in
37 by a majority vote of the persons present. In the event of a tie
38 vote, the matter shall be ~~referred to a committee selected by the~~
39 ~~chair, comprised of a majority of commissioners currently~~
40 ~~holding office.~~ *referred to a randomly selected committee,*

1 *comprised of a majority of the commissioners specifically*
2 *appointed to hear juvenile parole matters and who are holding*
3 *office at the time.*

4 (d) When determining whether commissioners or deputy
5 commissioners shall hear matters pursuant to subdivision (f) of
6 Section 5075.1, or any other matter submitted to the board
7 involving wards under the jurisdiction of the Division of ~~Youth~~
8 ~~Operations~~ *Juvenile Facilities*, the chair shall take into account
9 the degree of complexity of the issues presented by the case. Any
10 decision resulting in the extension of a parole consideration date
11 shall entitle a ward to appeal the decision to a panel comprised of
12 two or more commissioners, of which no more than one may be
13 a deputy commissioner. The panel shall consider and act upon
14 the appeal in accordance with rules established by the board.

15 (e) Consideration of parole release for persons sentenced to
16 life imprisonment pursuant to subdivision (b) of Section 1168
17 shall be heard by a panel of two or more commissioners or
18 deputy commissioners, of which only one may be a deputy
19 commissioner. A recommendation for recall of a sentence under
20 subdivisions (d) and (e) of Section 1170 shall be made by a
21 panel, a majority of whose commissioners are commissioners of
22 the Board of Parole Hearings.

23 .
24 SEC. 50. Section 5082 of the Penal Code is repealed.

25 SEC. 51. The heading of Chapter 4 (commencing with
26 Section 6001) of Title 7 of Part 3 of the Penal Code is amended
27 to read:

28
29 CHAPTER 4. DIVISION OF ~~YOUTH OPERATIONS~~ *JUVENILE*
30 *FACILITIES*

31
32 ~~SEC. 52.—Section 6001 of the Penal Code is repealed.~~

33 *SEC. 52. Section 6001 of the Penal Code is amended to read:*
34 *6001. The Commencing July 1, 2005, the establishment,*
35 *organization, jurisdiction, powers, duties, responsibilities, and*
36 *functions of the Youth Authority are continued as provided in the*
37 *Youth Authority Act (Chapter 1 (commencing with Section*
38 *1700) of Division 2.5 of the Welfare and Institutions Code), as it*
39 *existed on June 30, 2005, are continued in the Department of*
40 *Corrections and Rehabilitation, Division of Juvenile Facilities.*

1 SEC. 53. Section 6003 of the Penal Code is repealed.
2 SEC. 54. Section 6004 of the Penal Code is repealed.
3 SEC. 55. The heading of Chapter 5 (commencing with
4 Section 6024) of Title 7 of Part 3 of the Penal Code is amended
5 to read:

6
7 CHAPTER 5. THE CORRECTIONS STANDARDS AUTHORITY
8

9 SEC. 56. Section 6024 of the Penal Code is amended to read:
10 6024. Commencing July 1, 2005, there is hereby established
11 with the Department of Corrections and Rehabilitation the
12 Corrections Standards Authority. As of July 1, 2005, any
13 reference to the Board of Corrections refers to the Corrections
14 Standards Authority. As of that date, the Board of Corrections is
15 abolished.

16 SEC. 57. Section 6025 of the Penal Code is amended to read:
17 6025. (a) Commencing July 1, 2005, the Corrections
18 Standards Authority shall be composed of ~~17~~ 19 members, one of
19 whom shall be the Secretary of the Department of Corrections
20 and Rehabilitation, or his or her designee, who shall be designated
21 as the chairperson, and four of whom shall be subordinate
22 officers of the secretary. At least one subordinate officer shall be
23 a manager or administrator of a state correctional facility for
24 adult offenders, and at least one subordinate officer shall be a
25 manager or administrator of a state correctional facility for
26 juvenile offenders. The remaining ~~12~~ 14 members shall be
27 appointed by the Governor after consultation with, and with the
28 advice of, the secretary, and with the advice and consent of the
29 Senate. The gubernatorial appointments shall include all of the
30 following:

31 (1) A county sheriff in charge of a local detention facility
32 which has a Corrections Standards Authority rated capacity of
33 200 or less inmates.

34 (2) A county sheriff in charge of a local detention facility
35 which has a Corrections Standards Authority rated capacity of
36 over 200 inmates.

37 (3) A county supervisor or county administrative officer.

38 (4) A chief probation officer from a county with a population
39 over 200,000.

1 (5) A chief probation officer from a county with a population
2 under 200,000.

3 (6) A manager or administrator of a county local detention
4 facility.

5 (7) An administrator of a local community-based correctional
6 program.

7 (8) Two public members, at least one of whom shall represent
8 the interests of crime victims.

9 (9) Two rank and file representatives. One shall be from local
10 corrections facilities, as described in Section 6035 or a probation
11 department, and one shall be from state correctional facilities or
12 the parole division. One of the two representatives shall have a
13 minimum of five years experience working in a state or local
14 adult correctional facility.

15 (10) *Two rank and file representatives from one or more state*
16 *correctional facilities. One representative shall be a state parole*
17 *agent or parole officer. One of the two representatives shall have*
18 *a minimum of five years experience working in a state adult*
19 *correctional facility.*

20 (11) A representative of a community-based youth service
21 organization.

22 (b) *The terms of the members appointed by the Governor shall*
23 *expire as follows: seven on July 1, 2007, and seven on July 1,*
24 *2008. Successor members shall hold office for terms of three*
25 *years, each term to commence on the expiration date of the*
26 *predecessor. Any appointment to a vacancy that occurs for any*
27 *reason other than expiration of the term shall be for the*
28 *remainder of the unexpired term. Members are eligible for*
29 *reappointment.*

30 (c) The authority shall select a vice chairperson from among
31 its members. ~~Nine~~ Ten members of the board shall constitute a
32 quorum.

33 ~~(e)~~

34 (d) When the authority is hearing charges against any member,
35 the individual concerned shall not sit as a member of the board
36 for the period of hearing of charges and the determination of
37 recommendations to the Governor.

38 ~~(d)~~

39 (e) If any appointed member is not in attendance for three
40 consecutive meetings the authority may recommend to the

1 Governor that the member be removed and the Governor may
2 make a new appointment, with the advice and consent of the
3 Senate, for the remainder of the term.

4 SEC. 58. Section 6026 of the Penal Code is amended to read:

5 6026. The Corrections Standards Authority shall be the
6 means whereby the Department of Corrections and Rehabilitation
7 may correlate its individual programs for adults and youths under
8 its jurisdiction.

9 SEC. 59. Section 6030 of the Penal Code is amended to read:

10 6030. (a) The Corrections Standards Authority shall establish
11 minimum standards for ~~local detention~~ *state and local*
12 *correctional* facilities. *The standards for state correctional*
13 *facilities shall be established by January 1, 2007.* The authority
14 shall review those standards biennially and make any appropriate
15 revisions.

16 (b) The standards shall include, but not be limited to, the
17 following: health and sanitary conditions, fire and life safety,
18 security, rehabilitation programs, recreation, treatment of persons
19 confined in ~~local detention~~ *state and local correctional* facilities,
20 and personnel training.

21 (c) The standards shall require that at least one person on duty
22 at the facility is knowledgeable in the area of fire and life safety
23 procedures.

24 (d) The standards shall also include requirements relating to
25 the acquisition, storage, labeling, packaging, and dispensing of
26 drugs.

27 (e) In establishing minimum standards, the authority shall seek
28 the advice of the following:

29 (1) For health and sanitary conditions:

30 The State Department of Health Services, physicians,
31 psychiatrists, local public health officials, and other interested
32 persons.

33 (2) For fire and life safety:

34 The State Fire Marshal, local fire officials, and other interested
35 persons.

36 (3) For security, rehabilitation programs, recreation, and
37 treatment of persons confined in ~~local detention~~ *correctional*
38 facilities:

39 The Department of Corrections and Rehabilitation, state and
40 local juvenile justice commissions, state and local correctional

officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

SEC. 60. Section 6050 of the Penal Code is amended to read:

6050. (a) The Governor, upon recommendation of the secretary, shall appoint the ~~wardens~~ *chief operating officers* of the various state prisons. Each ~~warden~~ *chief operating officer* shall be subject to removal by the secretary. If the secretary removes the ~~warden~~, ~~his or her~~ *him or her*, the secretary's action shall be final. The ~~wardens~~ *chief operating officers* shall be exempt from civil service.

(b) The Department of Personnel Administration shall fix the compensation of the wardens and superintendents of the state prisons.

SEC. 61. Section 6126 of the Penal Code is amended to read:

6126. (a) (1) The Inspector General shall ~~be responsible for reviewing~~ *review* departmental policy and procedures ~~for conducting~~, *conduct* audits of investigatory practices and other audits, ~~as well as conducting and conduct~~ investigations of the Department of Corrections, ~~the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Youth and Adult Correctional Agency and Rehabilitation~~, as requested by either the Secretary of the ~~Youth and Adult Correctional Agency~~ *Department of Corrections and Rehabilitation* or a Member of the Legislature, pursuant to the approval of the Inspector General under policies to be developed by the Inspector General. The Inspector General may, under policies developed by the Inspector General, initiate an investigation or an audit on his or her own accord.

(2) *The Inspector General shall audit each chief operating officer of an institution one year after his or her appointment, and shall audit each correctional institution at least once every four years. These audit reports shall be provided to the Legislature and shall be made public. The requirements of this*

1 *paragraph shall be phased in by the Inspector General so that*
2 *they are fully met by July 1, 2009.*

3 (b) Upon completion of an investigation or audit, the Inspector
4 General shall provide a response to the requester.

5 (c) The Inspector General shall, during the course of an
6 investigatory audit, identify areas of full and partial compliance,
7 or noncompliance, with departmental investigatory policies and
8 procedures, specify deficiencies in the completion and
9 documentation of investigatory processes, and recommend
10 corrective actions, including, but not limited to, additional
11 training with respect to investigative policies, additional policies,
12 or changes in policy, as well as any other findings or
13 recommendations that the Inspector General deems appropriate.

14 (d) *The Inspector General, pursuant to Section 6126.6, shall*
15 *review the Governor's candidates for appointment to serve as*
16 *chief operating officer for the state's adult correctional*
17 *institutions.*

18 (e) The Inspector General shall, in consultation with the
19 Department of Finance, develop a methodology for producing a
20 workload budget to be used for annually adjusting the budget of
21 the office of the Inspector General, beginning with the budget for
22 the 2005–06 fiscal year.

23 *SEC. 62. Section 6126.3 of the Penal Code is amended to*
24 *read:*

25 6126.3. (a) The Inspector General shall not destroy any
26 papers or memoranda used to support a completed audit within
27 three years after a report is released.

28 (b) Except as provided in subdivision (c), all books, papers,
29 records, and correspondence of the office pertaining to its work
30 are public records subject to Chapter 3.5 (commencing with
31 Section 6250) of Division 7 of Title 1 of the Government Code
32 and shall be filed at any of the regularly maintained offices of the
33 Inspector General.

34 (c) The following books, papers, records, and correspondence
35 of the office of the Inspector General pertaining to its work are
36 not public records subject to Chapter 3.5 (commencing with
37 Section 6250) of Division 7 of Title 1 of the Government Code,
38 nor shall they be subject to discovery pursuant to any provision
39 of Title 3 (commencing with Section 1985) of Part 4 of the Code
40 of Civil Procedure in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section 6126.5, *Section 6126.6*, subdivision (c) of Section 6128, subdivision (a) or (b) of Section 6131, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any audit or investigation that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and his or her staff, or between staff members of the Inspector General, or any personal notes of the Inspector General or his or her staff.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the Inspector General, except in those cases where the Inspector General determines that disclosure of the information is necessary in the interests of justice.

SEC. 63. Section 6126.6 is added to the Penal Code, to read:

6126.6. (a) Prior to filling a vacancy for chief operating officer by appointment pursuant to Section 6050, the Governor shall first submit to the Inspector General the names of candidates for the position of chief operating officer for review of their qualifications.

(b) Upon receipt of the names of those candidates and their completed personal data questionnaires, the Inspector General shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the duties of the office to which the appointment or nomination is made.

Within 90 days of submission by the Governor of those names, the Inspector General shall advise in confidence to the Governor his or her recommendation whether the candidate is exceptionally well-qualified, well-qualified, qualified, or not

1 *qualified and the reasons therefore, and may report, in*
2 *confidence, any other information that the Inspector General*
3 *deems pertinent to the qualifications of the candidate.*

4 *(c) In reviewing the qualifications of a candidate for the*
5 *position of chief operating officer, the Inspector General shall*
6 *consider, among other appropriate factors, his or her experience*
7 *in effectively managing correctional facilities and inmate*
8 *populations; ability to deal effectively with employees, detained*
9 *persons and other interested persons in addressing management,*
10 *confinement, and safety issues in an effective, fair, and*
11 *professional manner; and knowledge of correctional best*
12 *practices.*

13 *(d) The Inspector General shall establish and adopt rules and*
14 *procedures regarding the review of the qualifications of*
15 *candidates for the position of chief operating officer. Those rules*
16 *and procedures shall establish appropriate, confidential methods*
17 *for disclosing to the candidate the subject matter of substantial*
18 *and credible adverse allegations received regarding the*
19 *candidate's reputation and integrity which, unless rebutted,*
20 *would be determinative of the candidate's unsuitability for*
21 *appointment. No rule or procedure shall be adopted that permits*
22 *the disclosure to the candidate of information from which the*
23 *candidate may infer the source, and no information shall either*
24 *be disclosed to the candidate nor be obtainable by any process*
25 *which would jeopardize the confidentiality of communications*
26 *from persons whose opinion has been sought on the candidate's*
27 *qualifications.*

28 *(e) All communications, written, verbal or otherwise, of and to*
29 *the Governor, the Governor's authorized agents or employees,*
30 *including, but not limited to, the Governor's Legal Affairs*
31 *Secretary and Appointments Secretary, or of and to the Inspector*
32 *General in furtherance of the purposes of this section are*
33 *absolutely privileged from disclosure and confidential, and any*
34 *communication made in the discretion of the Governor or the*
35 *Inspector General with a candidate or person providing*
36 *information in furtherance of the purposes of this section shall*
37 *not constitute a waiver of the privilege or a breach of*
38 *confidentiality.*

39 *(f) When the Governor has appointed a person to the position*
40 *of chief operating officer who has been found not qualified by the*

Inspector General, the Inspector General shall make public that finding, after due notice to the appointee of his or her intention to do so. That notice and disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the Inspector General concerning the qualifications of the appointee.

(g) No person or entity shall be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefore.

(h) As used in this section, the term "Inspector General" includes employees and agents of the Office of the Inspector General.

(i) At any time prior to the receipt of the review from the Inspector General specified in subdivision (b), the Governor may withdraw the name of any person submitted to the Inspector General for evaluation pursuant to this section.

(j) No candidate for the position of chief operating officer may be appointed until the Inspector General has advised the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the Inspector General, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in the position of chief operating officer occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies, the Governor shall be required to submit any candidate's name to the Inspector General in order to provide him or her an opportunity, if time permits, to review and make a report.

(k) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to the position of chief operating officer, nor shall anything in this section be construed as adding any additional qualifications for the position of chief operating officer.

~~SEC. 61.~~

SEC. 64. Section 7518 of the Penal Code is amended to read:

7518. (a) The Department of Corrections and Rehabilitation and local health officers shall adopt guidelines for the making of

1 decisions pursuant to this chapter in consultation with the Office
2 of AIDS in the State Department of Health Services. The
3 guidelines shall be based on the latest written guidelines of HIV
4 transmission and infection established by the federal Centers for
5 Disease Control and Prevention.

6 (b) Oversight responsibility for implementation of the
7 applicable provisions of this title, including the oversight of
8 reports involving parole officers and the staff of state adult and
9 youth correctional facilities shall be vested with the Chief of
10 Medical Services in the Department of Corrections and
11 Rehabilitation.

12 Oversight responsibility at the county, the city, or the county
13 and city level shall rest with the local health officer.

14 ~~SEC. 62.~~

15 *SEC. 65.* The heading of Title 4.5 (commencing with Section
16 13600) of Part 4 of the Penal Code is amended to read:

17
18 TITLE 4.5. CORRECTIONS STANDARDS AUTHORITY

19
20 ~~SEC. 63.~~

21 *SEC. 66.* Section 13600 of the Penal Code is amended to
22 read:

23 13600. (a) Commencing July 1, 2005, any reference to the
24 Commission on Correctional Peace Officer Standards and
25 Training or “CPOST” shall refer to the Corrections Standards
26 Authority established pursuant to Chapter 5 (commencing with
27 Section 6024) of Title 7 of Part 3. As of that date, the
28 Commission on Correctional Peace Officer Standards and
29 Training is abolished.

30 (b) The Legislature finds and declares that peace officers of
31 the state correctional system, including youth and adult
32 correctional facilities, fulfill responsibilities that require creation
33 and application of sound selection criteria for applicants and
34 standards for their training prior to assuming their duties. For the
35 purposes of this section, correctional peace officers are peace
36 officers as defined in Section 830.5 and employed or designated
37 by the Department of Corrections and Rehabilitation.

38 The Legislature further finds that sound applicant selection and
39 training are essential to public safety and in carrying out the
40 missions of the Department of Corrections and Rehabilitation in

the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs in the department.

(c) The Secretary of the Department of Corrections and Rehabilitation shall, with advice from the Corrections Standards Authority, appoint a subordinate officer to serve as executive director of the board. The subordinate officer shall serve at the pleasure of the secretary. The subordinate officer shall appoint staff as provided for in the annual Budget Act, beginning in the 2005-06 fiscal year.

~~SEC. 64.~~

SEC. 67. Section 13601 of the Penal Code is amended to read:

13601. (a) The Corrections Standards Authority shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. Using the psychological and screening standards established by the State Personnel Board, the State Personnel Board or the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities* shall ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in either a youth or adult correctional facility, is determined to be free from emotional or mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

(b) The authority may approve standards for a course in the carrying and use of firearms for correctional peace officers that is different from that prescribed pursuant to Section 832. The standards shall take into consideration the different circumstances presented within the institutional setting from that presented to other law enforcement agencies outside the correctional setting.

(c) Notwithstanding Section 3078 of the Labor Code, the length of the probationary period for correctional peace officer apprentices shall be determined by the authority subject to

1 approval by the State Personnel Board, pursuant to Section
2 19170 of the Government Code.

3 (d) The authority shall develop, approve, and monitor
4 standards for advanced rank-and-file and supervisory state
5 correctional peace officer and training programs for the
6 Department of Corrections and Rehabilitation. When a
7 correctional peace officer is promoted within the department, he
8 or she shall be provided with and be required to complete these
9 secondary training experiences.

10 (e) The authority shall develop, approve, and monitor
11 standards for the training of state correctional peace officers in
12 the department in the handling of stress associated with their
13 duties.

14 (f) Toward the accomplishment of the objectives of this act,
15 the authority may confer with, and may avail itself of the
16 assistance and recommendations of, other state and local
17 agencies, boards, or commissions.

18 (g) Notwithstanding the authority of the authority, the
19 department shall design and deliver training programs, shall
20 conduct validation studies, and shall provide program support.
21 The authority shall monitor program compliance by the
22 department.

23 (h) The authority may disapprove any training courses created
24 by the department pursuant to the standards developed by the
25 authority if it determines that the courses do not meet the
26 prescribed standards.

27 (i) The authority shall annually submit an estimate of costs to
28 conduct those inquiries and audits as may be necessary to
29 determine whether the department and each of its institutions and
30 parole regions are adhering to the standards developed by the
31 authority, and shall conduct those inquiries and audits consistent
32 with the annual Budget Act.

33 (j) The authority shall establish and implement procedures for
34 reviewing and issuing decisions concerning complaints or
35 recommendations from interested parties regarding authority
36 rules, regulations, standards, or decisions.

37 ~~SEC. 65.~~

38 *SEC. 68.* Section 13602 of the Penal Code is amended to
39 read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the Corrections Standards Authority before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and Rehabilitation shall complete the course of training, pursuant to standards approved by the authority for that position.

(c) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

~~SEC. 66.~~

SEC. 69. Section 13603 of the Penal Code is amended to read:

13603. (a) The Department of Corrections and Rehabilitation shall provide 16 weeks of training to each correctional peace officer cadet. Except as provided by subdivision (b), this training shall be completed by the cadet prior to his or her assignment to a post or position as a correctional peace officer.

(b) If an agreement is reached between the department and the bargaining unit for the correctional peace officers that this subdivision shall apply, and with the approval of the Corrections Standards Authority on how to implement the on-the-job training requirements of the subdivision, the department shall provide a total of 16 weeks of training to each correctional peace officer cadet as follows:

(1) Twelve weeks of the training shall be at the department's training academy. Cadets shall be sworn in as correctional peace officers upon the completion of this initial 12 weeks.

(2) Four weeks shall be at the institution where the cadet is assigned to a post or position.

(c) The department shall provide a minimum of two weeks of training to each newly appointed first-line supervisor.

(d) Training standards previously established pursuant to this section shall remain in effect until training requirements are established by the Corrections Standards Authority pursuant to Section 13602.

~~SEC. 67.~~

SEC. 70. Section 13810 of the Penal Code is amended to read:

13810. There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 19 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, a subordinate officer of the Secretary of Corrections and Rehabilitation, and the State Public Defender; eight members appointed by the Senate Rules Committee; and eight members appointed by the Speaker of the Assembly.

The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and six private citizens, including a representative of a citizens, professional, or community organization. The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate Committee on Criminal Procedure, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and four private citizens, including a representative of a citizens, professional, or community organization. The Speaker of the Assembly shall include among his appointments different persons from each of the following categories: a representative of the counties, a representative of

the cities, a member of the Assembly Committee on Public Safety, a chief of police, a peace officer, and three private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

The Governor shall select a chairman from among the members of the council.

~~SEC. 68:~~

~~SEC. 71.~~ Section 14204 of the Penal Code is amended to read:

14204. The Attorney General shall provide training on the services provided by the center to line personnel, supervisors, and investigators in the following fields: law enforcement, district attorneys' offices, the Department of Corrections and Rehabilitation, probation departments, court mediation services, and the judiciary. The Corrections Standards Authority shall provide for the presentation of training to peace officers which will enable them to more efficiently handle, on the local level, the tracing of missing persons and victims of violent crimes.

~~The changes to this section made by the Governor's Reorganization Plan 2 of 2005 shall become operative on July 1, 2005.~~

~~SEC. 69:~~

~~SEC. 72.~~ Section 1000 of the Welfare and Institutions Code is amended to read:

1000. Commencing July 1, 2005, any reference to the Department of the Youth Authority refers to the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities*, which has jurisdiction over all educational training and treatment institutions now or hereafter established and maintained in the state as correctional schools for the reception of wards of the juvenile court and other persons committed to the department.

~~SEC. 70:~~

~~SEC. 73.~~ Section 1703 of the Welfare and Institutions Code is amended to read:

1703. Commencing July 1, 2005, as used in this chapter the following terms have the following meanings:

(a) "Public offenses" means public offenses as that term is defined in the Penal Code.

(b) “Court” includes any official authorized to impose sentence for a public offense.

(c) “Youth Authority,” “Authority,” “authority,” or “division” means the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities*.

(d) “Board” or “board” means the Board of Parole Hearings. *Until January 1, 2007, at which time “board” shall refer to the body created to hear juvenile parole matters under the jurisdiction of the Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation.*

(e) The masculine pronoun includes the feminine.

~~SEC. 71.~~

SEC. 74. Section 1710 of the Welfare and Institutions Code is amended to read:

1710. (a) Commencing July 1, 2005, any reference to the Department of the Youth Authority in this or any other code refers to the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities*.

(b) *The Legislature finds and declares the following:*

(1) *The purpose of the Division of Juvenile Facilities within the Department of Corrections and Rehabilitation is to protect society from the consequences of criminal activity by providing for the secure custody of wards, and to effectively and efficiently operate and manage facilities housing youthful offenders under the jurisdiction of the department, consistent with the purposes set forth in Section 1700.*

(2) *The purpose of the Division of Juvenile Programs within the Department of Corrections and Rehabilitation is to provide comprehensive training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, accountability to victims and to produce youth who become law-abiding and productive members of society, consistent with the purposes set forth in Section 202.*

(3) *The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into*

1 *society, in order to reduce the rate of recidivism, thereby*
2 *increasing public safety.*

3 ~~SEC. 72.~~

4 *SEC. 75.* Section 1711 of the Welfare and Institutions Code is
5 amended to read:

6 1711. ~~The Governor, upon recommendation of the Secretary~~
7 ~~of the Department of Corrections and Rehabilitation, shall~~
8 ~~appoint a subordinate officer to the secretary, subject to Senate~~
9 ~~confirmation. The subordinate officer shall serve at the pleasure~~
10 ~~of the Governor, and shall serve as the chief administrative~~
11 ~~officer of the Department of Corrections and Rehabilitation,~~
12 ~~Division of Youth Operations. Commencing July 1, 2005, any reference to the Director of the Youth~~
13 ~~Authority shall be to the subordinate officer appointed pursuant~~
14 ~~to this section shall be to the Chief Deputy Secretary for Juvenile~~
15 ~~Justice in the Department of Corrections and Rehabilitation,~~
16 unless otherwise expressly provided.

17 ~~SEC. 73.~~

18 *SEC. 76.* Section 1712 of the Welfare and Institutions Code is
19 amended to read:

20 1712. (a) All powers, duties, and functions pertaining to the
21 care and treatment of wards provided by any provision of law
22 and not specifically and expressly assigned to the *Juvenile*
23 *Justice branch of the* Department of Corrections and
24 Rehabilitation, ~~Division of Youth Operations~~ or to the Board of
25 Parole Hearings, shall be exercised and performed by the
26 Secretary of the Department of Corrections and Rehabilitation.
27 The secretary shall be the appointing authority for all civil
28 service positions of employment in the department. The secretary
29 may delegate the powers and duties vested in him or her by law,
30 in accordance with Section 7.

31 (b) Commencing July 1, 2005, the secretary is authorized to
32 make and enforce all rules appropriate to the proper
33 accomplishment of the functions of the Division of ~~Youth~~
34 ~~Operations~~ *Juvenile Facilities, Division of Juvenile Programs,*
35 *and Division of Juvenile Parole Operations.* The rules shall be
36 promulgated and filed pursuant to Chapter 4.5 (commencing with
37 Section 11371) of Part 1 of Division 3 of Title 2 of the
38 Government Code, and shall, to the extent practical, be stated in
39 language that is easily understood by the general public.
40

1 (c) The secretary shall maintain, publish, and make available
2 to the general public, a compendium of rules and regulations
3 promulgated by the department pursuant to this section.

4 (d) The following exceptions to the procedures specified in
5 this section shall apply to the department:

6 (1) The department may specify an effective date that is any
7 time more than 30 days after the rule or regulation is filed with
8 the Secretary of State; provided that no less than 20 days prior to
9 that effective date, copies of the rule or regulation shall be posted
10 in conspicuous places throughout each institution and shall be
11 mailed to all persons or organizations who request them.

12 (2) The department may rely upon a summary of the
13 information compiled by a hearing officer; provided that the
14 summary and the testimony taken regarding the proposed action
15 shall be retained as part of the public record for at least one year
16 after the adoption, amendment, or repeal.

17 ~~SEC. 74.~~

18 *SEC. 77.* Section 1713 of the Welfare and Institutions Code is
19 amended to read:

20 1713. (a) ~~The subordinate officer appointed pursuant to~~
21 ~~Section 1711~~ *Chief Deputy Secretary for Juvenile Justice in the*
22 *Department of Corrections and Rehabilitation* shall have wide
23 and successful administrative experience in youth or adult
24 correctional programs embodying rehabilitative or delinquency
25 prevention concepts.

26 (b) The Governor may request the State Personnel Board to
27 use extensive recruitment and merit selection techniques and
28 procedures to provide a list of persons qualified for appointment
29 as that subordinate officer. The Governor may appoint any
30 person from such list of qualified persons or may reject all names
31 and appoint another person who meets the requirements of this
32 section.

33 ~~SEC. 75.~~

34 *SEC. 78.* Section 1714 of the Welfare and Institutions Code is
35 amended to read:

36 1714. The Secretary of the Department of Corrections and
37 Rehabilitation may transfer persons confined in one institution or
38 facility of the Division of ~~Youth Operations~~ *Juvenile Facilities* to
39 another.

~~SEC. 76.~~

SEC. 79. Section 1716 of the Welfare and Institutions Code is amended to read:

1716. Commencing July 1, 2005, any reference to the Youth Authority Board refers to the Board of Parole Hearings. As of that date, the Youth Authority Board is abolished.

~~SEC. 77.~~

SEC. 80. Section 1717 of the Welfare and Institutions Code is repealed.

~~SEC. 78.~~

SEC. 81. Section 1718 of the Welfare and Institutions Code is repealed.

~~SEC. 79.~~

SEC. 82. Section 1719 of the Welfare and Institutions Code is amended to read:

1719. (a) Commencing July 1, 2005, the following powers and duties shall be exercised and performed by the Board of Parole Hearings: discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals.

(b) Any ward may appeal an adjustment to his or her parole consideration date to a panel comprised of at least two commissioners.

(c) The following powers and duties shall be exercised and performed by the Division of ~~Youth Operations~~ *Juvenile Facilities*: return of persons to the court of commitment for redispotion by the court, determination of offense category, setting of parole consideration dates, conducting annual reviews, treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(d) The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of ~~Youth Operations~~ *Juvenile Facilities*, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process

rights of wards. The department shall develop and implement a system of graduated sanctions which distinguishes between minor, intermediate, and serious misconduct. The department may extend a ward's parole consideration date, subject to appeal pursuant to subdivision (b), from one to not more than 12 months, inclusive, for a sustained serious misconduct violation if all other sanctioning options have been considered and determined to be unsuitable in light of the ward's previous case history and the circumstances of the misconduct. In any case in which a parole consideration date has been extended, the disposition report shall clearly state the reasons for the extension. The length of any parole consideration date extension shall be based on the seriousness of the misconduct, the ward's prior disciplinary history, the ward's progress toward treatment objectives, the ward's earned program credits, and any extenuating or mitigating circumstances. The department shall promulgate regulations to implement a table of sanctions to be used in determining parole consideration date extensions. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

~~SEC. 80.~~

SEC. 83. Section 1720 of the Welfare and Institutions Code is amended to read:

1720. (a) The case of each ward shall be reviewed by the department within 45 days of arrival at the department, and at other times as is necessary to meet the powers or duties of the board.

(b) The Division of ~~Youth Operations~~ *Juvenile Facilities* shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the department considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) The ward shall be entitled to notice if his or her annual review is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

1 (d) Failure of the division to review the case of a ward within
2 15 months of a previous review shall not of itself entitle the ward
3 to discharge from the control of the division but shall entitle him
4 or her to petition the superior court of the county from which he
5 or she was committed for an order of discharge, and the court
6 shall discharge him or her unless the court is satisfied as to the
7 need for further control.

8 (e) Reviews conducted by the division pursuant to this section
9 shall be written and shall include, but not be limited to, the
10 following: verification of the treatment or program goals and
11 orders for the ward to ensure the ward is receiving treatment and
12 programming that is narrowly tailored to address the correctional
13 treatment needs of the ward and is being provided in a timely
14 manner that is designed to meet the parole consideration date set
15 for the ward; an assessment of the ward's adjustment and
16 responsiveness to treatment, programming, and custody; a review
17 of the ward's disciplinary history and response to disciplinary
18 sanctions; an updated individualized treatment plan for the ward
19 that makes adjustments based on the review required by this
20 subdivision; an estimated timeframe for the ward's
21 commencement and completion of the treatment programs or
22 services; and a review of any additional information relevant to
23 the ward's progress.

24 (f) The division shall provide copies of the reviews prepared
25 pursuant to this section to the court and the probation department
26 of the committing county.

27 ~~SEC. 81.~~

28 *SEC. 84.* Section 1721 of the Welfare and Institutions Code is
29 repealed.

30 ~~SEC. 82.~~

31 *SEC. 85.* Section 1722 of the Welfare and Institutions Code is
32 repealed.

33 ~~SEC. 83.~~

34 *SEC. 86.* Section 1723 of the Welfare and Institutions Code is
35 amended to read:

36 1723. (a) Every order granting or revoking parole or issuing
37 final discharges to any person under the jurisdiction of the
38 division shall be made by the board or its designee, as authorized
39 by this article.

(b) All other powers conferred to the board concerning wards under the jurisdiction of the division may be exercised through subordinates or delegated to the division under rules established by the board. Any person subjected to an order of those subordinates or of the division pursuant to that delegation may petition the board for review. The board may review those orders under appropriate rules and regulations.

(c) All board designees shall be subject to the training required pursuant to Section 5075.6 of the Penal Code.

~~SEC. 84.~~

SEC. 87. Section 1725 of the Welfare and Institutions Code is amended to read:

1725. ~~The~~ (a) *Commencing July 1, 2005, the* Board of Parole Hearings shall succeed , and shall exercise and perform all powers and duties previously granted to, exercised by, and imposed upon the Youthful Offender Parole Board and Youth Authority Board, as authorized by this article. The Youthful Offender Parole Board and Youth Authority Board are abolished.

(b) *Commencing January 1, 2007, all commissioners appointed and trained to hear juvenile parole matters, together with their duties prescribed by law as functions of the Board of Parole Hearings concerning wards under the jurisdiction of the Department of Corrections and Rehabilitation, are transferred to the Chief Deputy Secretary for Juvenile Justice.*

~~SEC. 85.~~

SEC. 88. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) When a person has been committed to the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities*, the Board of Parole Hearings may, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719 do any of the following:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person

1 committed to the division pursuant to Sections 731 or 1731.5
2 may not be held in physical confinement for a total period of
3 time in excess of the maximum periods of time set forth in
4 Section 731. Nothing in this subdivision limits the power of the
5 board to retain the minor or the young adult on parole status for
6 the period permitted by Sections 1769, 1770, and 1771.

7 (3) Order reconfinement or renewed release under supervision
8 as often as conditions indicate to be desirable.

9 (4) Revoke or modify any parole or disciplinary appeal order.

10 (5) Modify an order of discharge if conditions indicate that
11 such modification is desirable and when that modification is to
12 the benefit of the person committed to the division.

13 (6) Discharge him or her from its control when it is satisfied
14 that discharge is consistent with the protection of the public.

15 (b) Within 60 days of intake, the division shall provide the
16 court and the probation department with a treatment plan for the
17 ward.

18 (c) A ward shall be entitled to an appearance hearing before a
19 panel of board commissioners for any action that would result in
20 the extension of a parole consideration date pursuant to
21 subdivision (d) of Section 5076.1 of the Penal Code.

22 (d) The department shall promulgate policies and regulations
23 to implement this section.

24 (e) Commencing on July 1, 2004, and annually thereafter, for
25 the preceding fiscal year, the department shall collect and make
26 available to the public the following information:

27 (1) The total number of ward case reviews conducted by the
28 division and the board, categorized by guideline category.

29 (2) The number of parole consideration dates for each
30 category set at guideline, above guideline, and below guideline.

31 (3) The number of ward case reviews resulting in a change to
32 a parole consideration date, including the category assigned to
33 the ward, the amount of time added to or subtracted from the
34 parole consideration date, and the specific reason for the change.

35 (4) The percentage of wards who have had a parole
36 consideration date changed to a later date, the percentage of
37 wards who have had a parole consideration date changed to an
38 earlier date, and the average annual time added or subtracted per
39 case.

1 (5) The number and percentage of wards who, while confined
2 or on parole, are charged with a new misdemeanor or felony
3 criminal offense.

4 (6) Any additional data or information identified by the
5 department as relevant.

6 (f) As used in subdivision (e), the term “ward case review”
7 means any review of a ward that changes, maintains, or
8 appreciably affects the programs, treatment, or placement of a
9 ward.

10 ~~SEC. 86.~~

11 *SEC. 89.* Section 1798 of the Welfare and Institutions Code is
12 amended to read:

13 1798. As of July 1, 2005, the State Commission on Juvenile
14 Justice, Crime and Delinquency Prevention is abolished.

15 ~~SEC. 87.~~

16 *SEC. 90.* Section 1798.5 of the Welfare and Institutions Code
17 is repealed.

18 *SEC. 91. Section 1798.5 is added to the Welfare and*
19 *Institutions Code, to read:*

20 *1798.5. (a) Commencing July 1, 2005, there is hereby*
21 *established within the Department of Corrections and*
22 *Rehabilitation the State Commission on Juvenile Justice. The*
23 *commission shall advise the Secretary of the Department of*
24 *Corrections and Rehabilitation and the Chief Deputy Secretary*
25 *of Juvenile Justice of the department. The purpose of the*
26 *commission is to provide comprehensive oversight, planning and*
27 *coordination of efforts leading to the improvement of juvenile*
28 *justice among state and local agencies.*

29 *(b) The commission shall be composed of 11 members, one of*
30 *whom shall be the Chief Deputy Secretary of Juvenile Justice for*
31 *the department, or his or her designee, who shall be designated*
32 *as the chairperson. One member shall be appointed by the Senate*
33 *Rules Committee. One member shall be appointed by the Speaker*
34 *of the Assembly. The remaining eight members shall be*
35 *appointed by the Governor after consultation with, and with the*
36 *advice of, the secretary of the department, and with the advice*
37 *and consent of the Senate. The gubernatorial appointments shall*
38 *include all of the following:*

39 *(1) A chief probation officer.*

40 *(2) A county sheriff.*

1 (3) *A manager or administrator of a county local detention*
2 *facility for juveniles.*

3 (4) *A rank and file representative from local juvenile*
4 *corrections.*

5 (5) *A representative from a community-based organization*
6 *serving at-risk youth.*

7 (6) *A judge of the juvenile court.*

8 (7) *Two members of the public, at least one of whom shall*
9 *represent the interests of crime victims.*

10 (c) *The terms of the members appointed by the Governor shall*
11 *expire as follows: four on July 1, 2007, and four on July 1, 2008.*
12 *The terms of the members appointed by the Senate Rules*
13 *Committee and the Speaker of the Assembly shall expire on July*
14 *1, 2008. Successor members shall hold office for terms of three*
15 *years, each term to commence on the expiration date of the*
16 *predecessor. Any appointment to a vacancy that occurs for any*
17 *reason other than expiration of the term shall be for the*
18 *remainder of the unexpired term. Members are eligible for*
19 *reappointment.*

20 (d) *The commission shall select a vice chairperson from*
21 *among its members. Six members of the board shall constitute a*
22 *quorum.*

23 (e) *If any member appointed by the Governor is not in*
24 *attendance for three consecutive meetings the commission may*
25 *recommend to the Governor that the member be removed and the*
26 *Governor may make a new appointment, with the advice and*
27 *consent of the Senate, for the remainder of the term.*

28 ~~SEC. 88.~~

29 SEC. 92. Section 3150 of the Welfare and Institutions Code is
30 amended to read:

31 3150. Commencing July 1, 2005, any reference to the
32 Narcotic Addict Evaluation Authority refers to the Board of
33 Parole Hearings, any reference to the chairperson of the authority
34 is to the chair of the board, and any reference to a member of the
35 authority is to a commissioner of the board.

36 (b) The board shall conduct a full and complete study of the
37 cases of all patients who are certified by the Secretary of the
38 Department of Corrections and Rehabilitation to the board as
39 having recovered from addiction or imminent danger of addiction
40 to such an extent that release in an outpatient status is warranted.

1 (c) Members of other similar boards may be assigned to hear
2 cases and make recommendations to the board on these matters.
3 Those recommendations shall be made in accordance with
4 policies established by a majority of the total membership of the
5 board.

6 ~~SEC. 89.~~

7 *SEC. 93.* Section 3151 of the Welfare and Institutions Code is
8 amended to read:

9 3151. Commencing July 1, 2005, after an initial period of
10 observation and treatment, and subject to the rules and policies
11 established by the secretary, whenever a person committed under
12 Article 2 or Article 3 of this chapter has recovered from his
13 addiction or imminent danger of addiction to such an extent that,
14 in the opinion of the secretary, release in an outpatient status is
15 warranted, the secretary shall certify that fact to the board. If the
16 secretary has not so certified within the preceding 12 months, in
17 the anniversary month of the commitment of any person
18 committed under this chapter his case shall automatically be
19 referred to the board for consideration of the advisability of
20 release in outpatient status. Upon certification by the secretary or
21 upon automatic certification, the board may release the person in
22 an outpatient status subject to all rules and regulations adopted
23 by the board, and subject to all conditions imposed by the board,
24 whether of general applicability or restricted to the particular
25 person released in outpatient status, and subject to being retaken
26 and returned to inpatient status as prescribed in those rules,
27 regulations, or conditions. The supervision of those persons
28 while in an outpatient status shall be administered by the
29 department. Those persons are not subject to the provisions of
30 Section 2600 of the Penal Code.

31 A single commissioner of the board may, by written or oral
32 order, suspend the release in outpatient status of a person and
33 cause him or her to be retaken, until the next meeting of the
34 board. The written order of any commissioner shall be a
35 sufficient warrant for any peace officer to return persons to
36 physical custody.

37 It is the duty of all peace officers to execute any order under
38 this section in the same manner as ordinary criminal process.

~~SEC. 90.~~

SEC. 94. Section 3157 of the Welfare and Institutions Code is repealed.

~~SEC. 91.~~

SEC. 95. Section 3158 of the Welfare and Institutions Code is amended to read:

3158. Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to a release hearing or other adjudication concerning rights of a person committed to the custody of the secretary by the board.

~~SEC. 92.~~

SEC. 96. Section 3300 of the Welfare and Institutions Code is amended to read:

3300. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections and Rehabilitation, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections and Rehabilitation, Division of Adult Operations, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of Mental Health shall have prior approval of the Director of Mental Health, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. Commencing July 1, 2005, the branches in the Department of Corrections and Rehabilitation, Division of ~~Youth Operations~~ *Juvenile Facilities* shall be established by order of the secretary, and shall be subject to his or her administrative direction. Branches placed in city or county facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled

1 to receive treatment substantially equal to that which would be
2 afforded those persons if confined in the main institution of the
3 California Rehabilitation Center.

4 ~~SEC. 93.~~

5 *SEC. 97.* Section 3309 of the Welfare and Institutions Code is
6 amended to read:

7 3309. Commencing July 1, 2005, the Secretary of the
8 Department of Corrections and Rehabilitation shall make rules
9 and regulations for the government of the community
10 correctional centers in the management of their affairs.

11 *SEC. 98.* *Section 48 of Governor's Reorganization Plan No.*
12 *1, as submitted to the Legislature on February 22, 2005, is not*
13 *operative.*

14 *SEC. 99.* *This act shall become operative only if the*
15 *Governor's Reorganization Plan No. 1 becomes effective. This*
16 *measure shall become operative as of July 1, 2005. However, in*
17 *order to facilitate a smooth transition to the operations of the*
18 *newly reorganized department, the Secretary of the Department*
19 *of Corrections and Rehabilitation shall retain and exercise*
20 *authority over all operations of all divisions of the department*
21 *until January 1, 2006.*

22 *SEC. 100.* *It is the intent of the Legislature that the changes*
23 *made in this act supplement and refine the changes proposed by*
24 *Governor's Reorganization Plan No. 1, as submitted to the*
25 *Legislature on February 22, 2005, and to the extent that any*
26 *conflicts exist between this act and that measure, the changes*
27 *made in this act shall prevail.*

28 *SEC. 101.* *This act is an urgency statute necessary for the*
29 *immediate preservation of the public peace, health, or safety*
30 *within the meaning of Article IV of the Constitution and shall go*
31 *into immediate effect. The facts constituting the necessity are:*

32 *In order to ensure that Governor's Reorganization Plan No. 1*
33 *will be effectively and efficiently implemented, it is necessary that*
34 *this act take effect immediately.*